IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 404 OF 2007
IN
MISC. APPLICATION NO. 15 OF 2007
IN
CRIMINAL APPEAL NO. 124 OF 2007

Kishan Chunilal Goradia ..Applicant

versus

State of Maharashtra ..Respondents

Mr. Vinit Jain i/b. Mr. Girish Kulkarni for the Applicant.

Ms. M. H. Mhatre, APP for the Respondents - State.

CORAM : V. C. DAGA, J.

DATE : 28TH AUGUST, 2007.

P.C.

. Heard learned counsel for the applicant and the learned APP for the State.

2. The applicant has invoked revisional jurisdiction of this court under Section 389 of the Cr.P.C. to challenge the order dated 21.8.2007 passed by the learned Sessions Court in Criminal Case No.375/P/2002, whereby the application made by

the applicant seeking permission to go abroad to visit China, Hong Kong and Japan during the period from 1.9.2007 to 15.9.2007, came to be rejected.

3. Learned counsel for the applicant submits that pursuant to the order of conviction, the applicant is expected to deposit amount of compensation in the sum of Rs.38 lacs and to suffer the simple imprisonment of two months together with fine. He further submits that the amount of Rs.4 lacs has already been deposited by him with the Sessions Court on 17.8.2007. He further submits that in order to secure presence of the applicant, he is prepared to furnish the Bank Guarantee in the sum of Rs.40,00,000/- (Rupees Forty Lacs) with a specific condition that in the event he fails to return and report to the Sessions Court on 17.9.2007, Sessions Court shall be free to invoke the Bank Guarantee.

4. Learned APP though tried to oppose this prayer, however, could not demonstrate any prejudice in the event the applicant is allowed to go abroad as a tourist subject to furnishing aforesaid Bank Guarantee to secure his presence.

5. In the above view of the matter and considering the rival submissions, the impugned order passed by the Sessions Court dated 21.8.2007 in Criminal Case No. 375/P/2002 is set aside. Applicant is permitted to go abroad for the period from 1.9.2007 to 15.9.2007 subject to furnishing an undertaking to this Court to report on 17.9.2007 along with the Bank Guarantee in the sum of Rs.40,00,000/- (Rupees Forty Lacs) to secure his presence. The Bank Guarantee should contain two specific clauses, (i) that in the event the applicant does not return and report on 17.9.2007 to the Sessions Court at Mumbai, the Sessions Court in Criminal Case No. 375/P/2002 shall be free to invoke the Bank Guarantee and, (ii) that if the applicant fails to return the original Bank Guarantee to the bank by 25th September, 2007, the bank shall remit Rs.40,00,000/- (Rupees Forty Lacs) to the Learned Sessions Court without any demand on bank in that behalf.

6. In the result, Application is allowed in terms of this order.

JUDGE